

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Dwayne Eddie Starks,

Petitioner,

v.

Warden Lee Correctional Institution,

Respondent.

Case No.: 6:19-cv-2300-SAL

**ORDER**

Petitioner, a state prisoner proceeding *pro se*, brought this action for habeas relief pursuant to 28 U.S.C. § 2254. This matter is before the court for review of the August 17, 2021 Report and Recommendation (the “Report”) of United States Magistrate Judge Kevin F. McDonald, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 80.] In the Report, the Magistrate Judge recommends dismissal of this action for lack of prosecution pursuant to Fed. R. Civ. P. 41(b). *Id.* No party filed objections to the Report, and the time to do so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to

accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 80, and incorporates the Report by reference herein. Accordingly, this action is **DISMISSED** for lack of prosecution pursuant to Fed. R. Civ. P. 41(b). In light of this ruling, Respondent’s amended motion for summary judgment, ECF No. 72, is terminated as **MOOT**.

**IT IS SO ORDERED.**

January 24, 2022  
Florence, South Carolina

/s/Sherri A. Lydon  
Sherri A. Lydon  
United States District Judge